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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,086

09/27/2005

Scott Allan Kendall

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7590

03/19/2008

Joseph J. Laks

Thomson Licensing LLC

2 Independence Way, Patent Operations

PO Box 5312

PRINCETON, NJ 08543

EXAMINER

ANDRAMUNO, FRANKLIN S

ART UNIT

PAPER NUMBER

2623

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,086	<b>Applicant(s)</b> KENDALL ET AL.	
	<b>Examiner</b> FRANKLIN S. ANDRAMUNO	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09/27/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/27/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/27/05, 05/08/06</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 8-10, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manson et al (US 6,543,051 B1) in view of Naidoo et al (US 7,185,282 B1). Hereinafter referred a Manson and Naidoo.

Regarding claims 1, 8 and 15, Manson discloses an apparatus, television signal receiver and the method for controlling an apparatus having an emergency alert function (**Receive Emergency Alert Message (402) in figure 4**), comprising steps of: detecting a second condition wherein a broadcast test associated with said emergency alert function is passed (**figure 4**). **However, Mason fails to teach the use of** detecting a first condition wherein signal strength on a selected channel associated with said emergency alert function exceeds a threshold. This is shown by Naidoo (**column 8 lines 10-13**), said broadcast test including detecting reception of a test signal that is broadcast on a scheduled periodic basis; and providing an output if said first and second conditions are detected (**column 15 lines 2-7**).

Therefore, it would have been obvious at the time of the invention to include the use of a condition detection in an emergency alert function. This is a useful combination because the system will detect emergencies automatically.

Regarding claims 2, 9 and 16, Manson discloses an apparatus, television signal receiver and the method of claim 1, wherein said broadcast test includes determining whether said test signal includes a user selected location code (**column 5 lines 27-29**) associated with said emergency alert function (**Figure 4**).

Regarding claims 3, 10 and 17, Manson discloses an apparatus, television signal receiver and the method of claim 1, wherein said test signal is broadcast on a weekly basis (**Column 7 line 37**).

3. Claims 4-7, 11-14, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manson et al (US 6,543,051 B1) in view of Naidoo et al (US 7,185,282 B1) in view of Ganzer et al (US 5,121,430). Hereinafter referred a Manson, Naidoo, and Ganzer.

Regarding claims 4, 11 and 18, Manson discloses an apparatus, television signal receiver and the method of claim 1, further comprised of: identifying one of said channels having higher signal strength relative to said other channels as said selected channel (**figure 2**). **However, Manson fails to teach the** tuning a plurality of channels associated with said emergency alert function. Ganzer discloses on (**column 2 lines 35-40**) a tuner circuitry tuned to the channel number of the station providing service.

Therefore, it would have been obvious at the time of the invention to include the use of a tuner. This is a useful combination because the emergency unit is delivered along the signal with the highest strength.

Regarding claims 5, 12 and 19, Manson discloses an apparatus, television signal receiver and the method of claim 4, further comprised of using said selected channel to receive emergency alert signals capable of activating said emergency alert function **(Create Digital Emergency Alert Message (412) in figure 4)**.

Regarding claims 6, 13 and 20, Naidoo discloses an apparatus, television signal receiver and the method of claim 1, further comprised of: providing a first output message if said first condition is not detected **(column 14 lines 12-18)**; and providing a second output message if said second condition is not detected **(column 15 lines 2-7)**.

Regarding claims 7, 14 and 21, Manson discloses an apparatus, television signal receiver and the method of claim 6, wherein said first and second output messages each indicates a corrective action **(Figure 4)**.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623